

REMARKS

By this response, Applicants amend Claim 1 and, therefore, Claims 1-12 and 40 are pending in the present Application. In view of the above amendment and the following remarks, Applicants respectfully request reconsideration and timely withdrawal of the pending rejections for the reasons discussed below. In the March 3, 2006 Advisory Action, the Examiner indicated that the proposed amendments filed after the Final Rejection, dated October 18, 2005, were not entered because they raise new issues that would require further consideration and/or search. In particular, the Examiner noted that "liquid crystal display" raises new issues.

In response, Applicants respectfully assert that no new issues requiring further consideration are raised by an amendment that limits the Claims to a "liquid crystal display," because ample support is given in the specification for such AND because the topic of liquid crystal displays was both previously researched with references provided by Applicants for consideration by the Examiner during the prosecution of this instant case.

In particular, Applicants point out that specific and particular support for "liquid crystal display" is provided in the Specification, including the drawings, in which a liquid crystal display is explicitly recited as exemplary embodiment.

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In support, Applicants respectfully draw the Examiner's to the Specification, as filed, where "liquid crystal" is recited in paragraph 49 of the Description on page 8, lines 4-26 (see, e.g., lines 4-5, 9-10, 16, 19, and 21), and in paragraphs 65 and 66, on page 13, lines 11-20. In the Drawings, ref. no. 32 of FIG. 2 identifies a liquid crystal display film (with support on page 8, lines 4-5). Similarly, FIG. 9 illustrates a liquid crystal display (with support on page 13, line 15), as does FIG. 10 (with support on page 13, line 20). Therefore, Applicants believe that such an amendment is a good-faith attempt to put the rejected Claims in condition for allowance, in a manner that does not require an additional search.

Applicants believe that no new search is required because the prosecution history indicates that references citing liquid crystal displays were already considered by the Examiner, and because the reference cited against Applicants claimed subject matter, namely US 6,118,426 (Albert) discusses liquid crystal displays yet distinguishes the electrophoretic display of that patent from liquid crystal displays. Albert also contemplates that the electrophoretic "electronic display 1004 can operate by principles known to the art of LCDs, plasma displays, CRTs, electrophoretic displays, or

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encapsulated electrophoretic displays." (Albert, Col. 19, lines 23-26).

Moreover, in an Information Disclosure Statement filed by Applicants and considered by Examiner on April 28, 2005, the term "liquid crystal display" is expressed in the titles of the references designated BA, BE, and BF. Clearly, liquid crystal displays are within the scope of a prior art search for the Claimed subject matter, both as originally filed, and as amended.

In accordance with 37 C.F.R. 1.104(a), and as instructed by the pertinent sections of the MPEP, for example, MPEP §904 et seq., the Examiner is obligated to conduct "a thorough investigation of the available prior art relating to the subject matter of the claimed invention." 37 C.F.R. 1.104(a) (1998). Based on the prosecution record, liquid crystal displays are within the scope of such a "thorough investigation," and thus no additional search is required.

Regarding the particulars of the present Submission with the Request for Continuing Examination, Applicants amend Claim 1 and, therefore, Claims 1-12 and 40 are pending in the present Application. As noted above, explicit support for the amendment to independent Claim 1 is found in the Specification of the present Application, page 8, line 4 to page 9, line 6.

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In the Final Rejection, Claims 1-12 and 40 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,118,426 to Albert, et al. Applicants' assert that Albert does not anticipate the flexible liquid crystal display element claimed by Applicants. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See also MPEP § 2131.02. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Examiner states:

Albert et al disclose an article of clothing comprising at least one material (fig. 9); a flexible body attached to the article of clothing (502), at least one integrated circuit supported within the flexible body (col. 18, lines 51-67); and a flexible display element supported within the flexible body (col. 18, lines 51-67).

Office Action, p. 2.

In response, Applicants aver that Albert does not expressly or inherently describe each and every element as set forth in amended Claim 1. Specifically, Albert neither teaches nor describes, expressly nor inherently, "a wearable device comprising ... a flexible liquid crystal display element supported within the flexible body" as claimed by Applicants."

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Indeed, Albert teaches away from the use of liquid crystal displays. In support, Applicants respectfully bring the following exemplary passages from Albert to the attention of the Examiner. First, Albert sets the stage for advancing the advantages of electrophoretic displays by highlighting **problems and disadvantages** alleged to be inherent in **liquid crystal displays**:

Despite much effort directed to developing highly-flexible, reflective display media, there are relatively few examples of displays formed on semi-flexible substrates, and these examples have found only moderate success. For example, plastic-based liquid crystal displays, including twisted nematic (TN), supertwisted nematic (STN), polymer dispersed liquid crystal (PDLC), and bistable cholesteric liquid crystals have been developed. Nevertheless, **problems remain with liquid crystal alignment in TN and STN displays, cholesteric displays are sensitive to changes in their cell gap, and local stress can cause changes in the scattering or absorbance of PDLC and cholesteric films. As such, only moderate flexibility can be achieved with these displays.**

Albert, Col. 1, line 57-Col. 2, line 3 (emphasis added). Later in the '426 patent specification, Albert implies the undesirability of liquid crystal displays, relative to the electrophoretic display: "A number of display materials are suitable for such an application. However, some of these display materials, **such as a liquid crystal display**, require a more complex cell in their manufacture." (Albert, col. 9, lines 2-4) [emphasis added].

Next, Albert unequivocally sets forth his invention:

The invention features a **printable display** comprising an **encapsulated electrophoretic display medium**. The resulting display is flexible. **Since the display media**

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can be printed, the display itself can be made inexpensively.

Albert, Col. 2, lines 24-27 (emphasis added).

Thus, Albert's teaching of an electrophoretic display medium is distinct from Applicants' claimed liquid crystal display element.

Albert makes clear and unequivocal that the display element therein is directed to a printable display element, which may be produced using "all forms of printing":

*Throughout the specification, reference will be made to printing or printed. As used throughout the specification, printing is intended to include all forms of printing and coating col. 3, l. 13-16 ... A "printed element" refers to an element formed using any one of the above techniques.*

Albert, Col. 3, lines 21-33 (emphasis added).

In addition, unlike the liquid crystal display element claimed by Applicants, the printed display element of Albert requires specific electrochemical requirements to be met in order to create a printable electrophoretic display, for example:

The successful construction of an encapsulated electrophoretic display requires the proper interaction of several different types of materials and processes, such as a polymeric binder and, optionally, a capsule membrane. These materials must be chemically compatible with the electrophoretic particles and fluid, as well as with each other. The capsule materials may engage in useful surface interactions with the electrophoretic particles, or may act as a chemical or physical boundary between the fluid and the binder.

Albert, Col. 3, lines 3-11.

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Therefore, Applicants' claimed liquid crystal display element is distinctly different from the printable electrophoretic display described by Albert.

Time and again, Albert expressly or implicitly defines the *electrically addressable display* taught therein as an *electrically active display that is printable*, unlike Applicants' Claimed liquid crystal display screen. In further support of Albert's disparate teachings, Applicants draw Examiner's attention, for example, to Col. 4, line 11 ("printing a display media on the first surface of the film"); Col. 4., line 29, 36 ("printing an electrically active ink"); Col. 4, lines 33-34 ("a process for printing an electrically addressable display"). Indeed, with regard to a wearable display, which includes an electrically addressable display, Albert once again unequivocally states, "*the display media is printed onto the backplane.*" Col. 18, line 63 (See Col. 2, lines 24-27) (Emphasis added).

Because of the above-identified differences and disparities between Alberts' printable electrophoretic display element and Applicants' claimed liquid crystal display element, the asserted anticipation rejection under 35 USC §102(e) overcome.

Applicants respectfully submit that amended independent Claim 1 is patentably distinguished over Albert, and that

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corresponding dependent Claims 2-12 and 40 also are distinguishable for at least the same reasons. Therefore, Applicants respectfully request that the rejection under 35 U.S.C. § 102(e) of Claims 1-12 and 40 be withdrawn.

By this Response, Applicants believe that a full and complete response has been made to the pending Office Action and respectfully submit that all of the stated grounds for rejection have been overcome or rendered moot. Again, no additional search is indicated or warranted. Applicants consider the amendatory language of Claim 1 to be fully within scope of any previous searches encompassing the broadest reasonable interpretation consistent with the specification, In re Morris, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997), as well as within the breadth or scope of the Parent Application, and of one or more variant but anticipatory embodiments.

In view of the foregoing, Applicants assert that the present submission is a proper and timely filed submission under 37 C.F.R. 1.114(c), when taken in conjunction with the Request for Continued Examination, filed concurrently herewith. Therefore, Applicants respectfully request the finality of the Office Action of October 18, 2005 be withdrawn. In addition, Applicants assert that the present submission is responsive to the Final Rejection of October 18,

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2005, under 37 C.F.R. 1.111, and thus, Applicants respectfully request that this submission be entered and considered. Also, Applicants respectfully submit that Claims 1-12 and 40 are in proper form for allowance, as amended. In lieu of entering the previous after-final amendment, kindly enter the amendments indicated in the present submission. A timely Notice of Allowance is kindly solicited.

If there are any questions regarding any aspect of the application, please call the undersigned at (949) 752-7040.

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents, Fax No. 571-273-8300 on the date stated below.

  
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Respectfully submitted,



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